



General Assembly

Amendment

January Session, 2007

LCO No. 8088

SB0145808088SD0

Offered by:

SEN. MCDONALD, 27th Dist.

SEN. KISSEL, 7th Dist.

To: Subst. Senate Bill No. **1458**

File No. 627

Cal. No. 519

"AN ACT CONCERNING JESSICA'S LAW."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 53a-71 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2007*):

5 (a) A person is guilty of sexual assault in the second degree when
6 such person engages in sexual intercourse with another person and: (1)
7 Such other person is thirteen years of age or older but under sixteen
8 years of age and the actor is more than [two] three years older than
9 such other person; or (2) such other person is mentally defective to the
10 extent that such other person is unable to consent to such sexual
11 intercourse; or (3) such other person is physically helpless; or (4) such
12 other person is less than eighteen years old and the actor is such
13 person's guardian or otherwise responsible for the general supervision
14 of such person's welfare; or (5) such other person is in custody of law
15 or detained in a hospital or other institution and the actor has

16 supervisory or disciplinary authority over such other person; or (6) the
17 actor is a psychotherapist and such other person is (A) a patient of the
18 actor and the sexual intercourse occurs during the psychotherapy
19 session, (B) a patient or former patient of the actor and such patient or
20 former patient is emotionally dependent upon the actor, or (C) a
21 patient or former patient of the actor and the sexual intercourse occurs
22 by means of therapeutic deception; or (7) the actor accomplishes the
23 sexual intercourse by means of false representation that the sexual
24 intercourse is for a bona fide medical purpose by a health care
25 professional; or (8) the actor is a school employee and such other
26 person is a student enrolled in a school in which the actor works or a
27 school under the jurisdiction of the local or regional board of education
28 which employs the actor; or (9) the actor is a coach in an athletic
29 activity or a person who provides intensive, ongoing instruction and
30 such other person is a recipient of coaching or instruction from the
31 actor and (A) is a secondary school student and receives such coaching
32 or instruction in a secondary school setting, or (B) is under eighteen
33 years of age; or (10) the actor is twenty years of age or older and stands
34 in a position of power, authority or supervision over such other person
35 by virtue of the actor's professional, legal, occupational or volunteer
36 status and such other person's participation in a program or activity,
37 and such other person is under eighteen years of age.

38 (b) Sexual assault in the second degree is a class C felony or, if the
39 victim of the offense is under sixteen years of age, a class B felony, and
40 any person found guilty under this section shall be sentenced to a term
41 of imprisonment of which nine months of the sentence imposed may
42 not be suspended or reduced by the court.

43 Sec. 2. Section 53a-73a of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective October 1, 2007*):

45 (a) A person is guilty of sexual assault in the fourth degree when: (1)
46 Such person intentionally subjects another person to sexual contact
47 who is (A) under [fifteen] thirteen years of age and the actor is more
48 than two years older than such other person, or (B) thirteen years of

49 age or older but under fifteen years of age and the actor is more than
50 three years older than such other person, or [(B)] (C) mentally
51 defective or mentally incapacitated to the extent that such other person
52 is unable to consent to such sexual contact, or [(C)] (D) physically
53 helpless, or [(D)] (E) less than eighteen years old and the actor is such
54 other person's guardian or otherwise responsible for the general
55 supervision of such other person's welfare, or [(E)] (F) in custody of
56 law or detained in a hospital or other institution and the actor has
57 supervisory or disciplinary authority over such other person; or (2)
58 such person subjects another person to sexual contact without such
59 other person's consent; or (3) such person engages in sexual contact
60 with an animal or dead body; or (4) such person is a psychotherapist
61 and subjects another person to sexual contact who is (A) a patient of
62 the actor and the sexual contact occurs during the psychotherapy
63 session, or (B) a patient or former patient of the actor and such patient
64 or former patient is emotionally dependent upon the actor, or (C) a
65 patient or former patient of the actor and the sexual contact occurs by
66 means of therapeutic deception; or (5) such person subjects another
67 person to sexual contact and accomplishes the sexual contact by means
68 of false representation that the sexual contact is for a bona fide medical
69 purpose by a health care professional; or (6) such person is a school
70 employee and subjects another person to sexual contact who is a
71 student enrolled in a school in which the actor works or a school under
72 the jurisdiction of the local or regional board of education which
73 employs the actor; or (7) such person is a coach in an athletic activity or
74 a person who provides intensive, ongoing instruction and subjects
75 another person to sexual contact who is a recipient of coaching or
76 instruction from the actor and (A) is a secondary school student and
77 receives such coaching or instruction in a secondary school setting, or
78 (B) is under eighteen years of age; or (8) such person subjects another
79 person to sexual contact and (A) the actor is twenty years of age or
80 older and stands in a position of power, authority or supervision over
81 such other person by virtue of the actor's professional, legal,
82 occupational or volunteer status and such other person's participation
83 in a program or activity, and (B) such other person is under eighteen

84 years of age.

85 (b) Sexual assault in the fourth degree is a class A misdemeanor or,
86 if the victim of the offense is under sixteen years of age, a class D
87 felony.

88 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) A person is guilty of
89 aggravated sexual assault of a minor when such person commits a
90 violation of subdivision (2) of subsection (a) of section 53-21 or section
91 53a-70, 53a-70a, 53a-71, 53a-86, 53a-87 or 53a-196a of the general
92 statutes, as amended by this act, and the victim of such offense is
93 under thirteen years of age, and (1) such person kidnapped or illegally
94 restrained the victim, (2) such person stalked the victim, (3) such
95 person used violence to commit such offense against the victim, (4)
96 such person caused serious physical injury to or disfigurement of the
97 victim, (5) there was more than one victim of such offense under
98 thirteen years of age, (6) such person was not known to the victim, or
99 (7) such person has previously been convicted of a violent sexual
100 assault.

101 (b) Aggravated sexual assault of a minor is a class A felony and any
102 person found guilty under this section shall, for a first offense, be
103 sentenced to a term of imprisonment of twenty-five years which may
104 not be suspended or reduced by the court and, for any subsequent
105 offense, be sentenced to a term of imprisonment of fifty years which
106 may not be suspended or reduced by the court.

107 Sec. 4. Section 53-21 of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective July 1, 2007*):

109 (a) Any person who (1) wilfully or unlawfully causes or permits any
110 child under the age of sixteen years to be placed in such a situation
111 that the life or limb of such child is endangered, the health of such
112 child is likely to be injured or the morals of such child are likely to be
113 impaired, or does any act likely to impair the health or morals of any
114 such child, or (2) has contact with the intimate parts, as defined in
115 section 53a-65, of a child under the age of sixteen years or subjects a

116 child under sixteen years of age to contact with the intimate parts of
117 such person, in a sexual and indecent manner likely to impair the
118 health or morals of such child, or (3) permanently transfers the legal or
119 physical custody of a child under the age of sixteen years to another
120 person for money or other valuable consideration or acquires or
121 receives the legal or physical custody of a child under the age of
122 sixteen years from another person upon payment of money or other
123 valuable consideration to such other person or a third person, except in
124 connection with an adoption proceeding that complies with the
125 provisions of chapter 803, shall be guilty of a class C felony for a
126 violation of subdivision (1) or (3) of this subsection and a class B felony
127 for a violation of subdivision (2) of this subsection, except that, if the
128 violation is of subdivision (2) of this subsection and the victim of the
129 offense is under thirteen years of age, such person shall be sentenced
130 to a term of imprisonment of which five years of the sentence imposed
131 may not be suspended or reduced by the court.

132 (b) The act of a parent or agent leaving an infant thirty days or
133 younger with a designated employee pursuant to section 17a-58 shall
134 not constitute a violation of this section.

135 Sec. 5. Section 53a-90a of the general statutes is repealed and the
136 following is substituted in lieu thereof (*Effective July 1, 2007*):

137 (a) A person is guilty of enticing a minor when such person uses an
138 interactive computer service to knowingly persuade, induce, entice or
139 coerce any person under sixteen years of age to engage in prostitution
140 or sexual activity for which the actor may be charged with a criminal
141 offense. For purposes of this section, "interactive computer service"
142 means any information service, system or access software provider
143 that provides or enables computer access by multiple users to a
144 computer server, including specifically a service or system that
145 provides access to the Internet and such systems operated or services
146 offered by libraries or educational institutions.

147 (b) [Enticing] (1) Except as provided in subdivision (2) of this

148 subsection, enticing a minor is a class D felony for a first offense, a
149 class C felony for a second offense and a class B felony for any
150 subsequent offense.

151 (2) Enticing a minor is a class B felony if the victim of the offense is
152 under thirteen years of age and any person found guilty of such class B
153 felony shall, for a first offense, be sentenced to a term of imprisonment
154 of which five years of the sentence imposed may not be suspended or
155 reduced by the court and, for any subsequent offense, be sentenced to
156 a term of imprisonment of which ten years of the sentence imposed
157 may not be suspended or reduced by the court.

158 Sec. 6. Section 53a-196a of the general statutes is repealed and the
159 following is substituted in lieu thereof (*Effective July 1, 2007*):

160 (a) A person is guilty of employing a minor in an obscene
161 performance when [(1) he] such person (1) employs any minor,
162 whether or not such minor receives any consideration, for the purpose
163 of promoting any material or performance which is obscene as to
164 minors, notwithstanding that such material or performance is intended
165 for an adult audience, or (2) [he] permits any such minor to be
166 employed, whether or not such minor receives any consideration, in
167 the promotion of any material or performance which is obscene as to
168 minors, notwithstanding that such material or performance is intended
169 for an adult audience, and [he] such person is the parent or guardian
170 of such minor or otherwise responsible for the general supervision of
171 such minor's welfare.

172 (b) Employing a minor in an obscene performance is a class A felony
173 and any person found guilty under this section shall be sentenced to a
174 term of imprisonment of which ten years of the sentence imposed may
175 not be suspended or reduced by the court.

176 Sec. 7. Section 53a-196c of the general statutes is repealed and the
177 following is substituted in lieu thereof (*Effective July 1, 2007*):

178 (a) A person is guilty of importing child pornography when, with

179 intent to promote child pornography, such person knowingly imports
180 or causes to be imported into the state three or more visual depictions
181 of child pornography of known content and character.

182 (b) Importing child pornography is a class B felony and any person
183 found guilty under this section shall be sentenced to a term of
184 imprisonment of which five years of the sentence imposed may not be
185 suspended or reduced by the court.

186 Sec. 8. Section 53a-196d of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective July 1, 2007*):

188 (a) A person is guilty of possessing child pornography in the first
189 degree when such person knowingly possesses fifty or more visual
190 depictions of child pornography.

191 (b) Possessing child pornography in the first degree is a class B
192 felony and any person found guilty under this section shall be
193 sentenced to a term of imprisonment of which five years of the
194 sentence imposed may not be suspended or reduced by the court.

195 Sec. 9. Section 53a-196e of the general statutes is repealed and the
196 following is substituted in lieu thereof (*Effective July 1, 2007*):

197 (a) A person is guilty of possessing child pornography in the second
198 degree when such person knowingly possesses twenty or more but
199 fewer than fifty visual depictions of child pornography.

200 (b) Possessing child pornography in the second degree is a class C
201 felony and any person found guilty under this section shall be
202 sentenced to a term of imprisonment of which two years of the
203 sentence imposed may not be suspended or reduced by the court.

204 Sec. 10. Section 53a-196f of the general statutes is repealed and the
205 following is substituted in lieu thereof (*Effective July 1, 2007*):

206 (a) A person is guilty of possessing child pornography in the third
207 degree when such person knowingly possesses fewer than twenty

208 visual depictions of child pornography.

209 (b) Possessing child pornography in the third degree is a class D
210 felony and any person found guilty under this section shall be
211 sentenced to a term of imprisonment of which one year of the sentence
212 imposed may not be suspended or reduced by the court.

213 Sec. 11. (NEW) (*Effective July 1, 2007*) (a) Notwithstanding any other
214 rule of evidence or provision of law, a statement by a child under
215 thirteen years of age relating to a sexual offense committed against that
216 child, or an offense involving physical abuse committed against that
217 child by a person or persons who had authority or apparent authority
218 over the child, shall be admissible in a criminal, juvenile or civil
219 proceeding if: (1) The court finds, in a hearing conducted outside the
220 presence of the jury, if any, that the circumstances of the statement,
221 including its timing and content, provide particularized guarantees of
222 its trustworthiness, (2) the statement was not made in preparation for a
223 legal proceeding, (3) the proponent of the statement makes known to
224 the adverse party an intention to offer the statement and the
225 particulars of the statement including the content of the statement, the
226 approximate time, date and location of the statement, the person to
227 whom the statement was made and the circumstances surrounding the
228 statement that indicate its trustworthiness, at such time as to provide
229 the adverse party with a fair opportunity to prepare to meet it, and (4)
230 either (A) the child testifies and is subject to cross-examination at the
231 proceeding, or (B) the child is unavailable as a witness and (i) there is
232 independent nontestimonial corroborative evidence of the alleged act,
233 and (ii) the statement was made prior to the defendant's arrest or
234 institution of juvenile proceedings in connection with the act described
235 in the statement.

236 (b) Nothing in this section shall be construed to (1) prevent the
237 admission of any statement under another hearsay exception, (2) allow
238 broader definitions in other hearsay exceptions for statements made by
239 children under thirteen years of age at the time of the statement
240 concerning any alleged act described in subsection (a) of this section

241 than is done for other declarants, or (3) allow the admission pursuant
242 to the residual hearsay exception of a statement described in
243 subsection (a) of this section.

244 Sec. 12. Section 53a-35a of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective July 1, 2007*):

246 For any felony committed on or after July 1, 1981, the sentence of
247 imprisonment shall be a definite sentence and the term shall be fixed
248 by the court as follows: (1) For a capital felony, a term of life
249 imprisonment without the possibility of release unless a sentence of
250 death is imposed in accordance with section 53a-46a; (2) for the class A
251 felony of murder, a term not less than twenty-five years nor more than
252 life; (3) for the class A felony of aggravated sexual assault of a minor
253 under section 3 of this act, a term not less than twenty-five years or
254 more than fifty years; (4) for a class A felony other than [murder] an
255 offense specified in subdivision (2) or (3) of this section, a term not less
256 than ten years nor more than twenty-five years; [(4)] (5) for the class B
257 felony of manslaughter in the first degree with a firearm under section
258 53a-55a, a term not less than five years nor more than forty years; [(5)]
259 (6) for a class B felony other than manslaughter in the first degree with
260 a firearm under section 53a-55a, a term not less than one year nor more
261 than twenty years, except that for a conviction under section 53a-
262 59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the
263 term shall be not less than five years nor more than twenty years; [(6)]
264 (7) for a class C felony, a term not less than one year nor more than ten
265 years, except that for a conviction under section 53a-56a, the term shall
266 be not less than three years nor more than ten years; [(7)] (8) for a class
267 D felony, a term not less than one year nor more than five years, except
268 that for a conviction under section 53a-60b or 53a-217, the term shall be
269 not less than two years nor more than five years, for a conviction
270 under section 53a-60c, the term shall be not less than three years nor
271 more than five years, and for a conviction under section 53a-216, the
272 term shall be five years; [(8)] (9) for an unclassified felony, a term in
273 accordance with the sentence specified in the section of the general
274 statutes that defines the crime.

275 Sec. 13. Subsection (b) of section 53a-55a of the general statutes is
 276 repealed and the following is substituted in lieu thereof (*Effective July*
 277 *1, 2007*):

278 (b) Manslaughter in the first degree with a firearm is a class B felony
 279 and any person found guilty under this section shall be sentenced to a
 280 term of imprisonment in accordance with subdivision [(4)] (5) of
 281 section 53a-35a, as amended by this act, of which five years of the
 282 sentence imposed may not be suspended or reduced by the court.

283 Sec. 14. Subsection (b) of section 54-125e of the general statutes is
 284 repealed and the following is substituted in lieu thereof (*Effective*
 285 *October 1, 2007*):

286 (b) When sentencing a person to a period of special parole, the court
 287 may, as a condition of the sentence, order such person to comply with
 288 any or all of the requirements of subsection (a) of section 53a-30. The
 289 court shall cause a copy of any such order to be delivered to such
 290 person and to the Department of Correction. The Board of Pardons and
 291 Paroles may require that such person comply with any or all of the
 292 requirements of subsection (a) of section 53a-30 which the court could
 293 have imposed and which are not inconsistent with any condition
 294 actually imposed by the court. Any person sentenced to a period of
 295 special parole shall also be subject to such rules and conditions as may
 296 be established by the Board of Pardons and Paroles or its chairperson
 297 pursuant to section 54-126."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	53a-71
Sec. 2	<i>October 1, 2007</i>	53a-73a
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>July 1, 2007</i>	53-21
Sec. 5	<i>July 1, 2007</i>	53a-90a
Sec. 6	<i>July 1, 2007</i>	53a-196a
Sec. 7	<i>July 1, 2007</i>	53a-196c
Sec. 8	<i>July 1, 2007</i>	53a-196d

Sec. 9	<i>July 1, 2007</i>	53a-196e
Sec. 10	<i>July 1, 2007</i>	53a-196f
Sec. 11	<i>July 1, 2007</i>	New section
Sec. 12	<i>July 1, 2007</i>	53a-35a
Sec. 13	<i>July 1, 2007</i>	53a-55a(b)
Sec. 14	<i>October 1, 2007</i>	54-125e(b)